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Texas Department of Banking

Catherine A. Ghiglieri
Commissioner

April 7, 1999

Mr. Roger Bezdek
Office of the Fiscal Assistant Secretary
U. S. Department of the Treasury
Room 2112
1500 Pennsylvania Avenue, N. W.
Washington, D. C. 20220

RE: Possible Regulation Regarding Access to Accounts at Financial Institutions Through Payment Service Providers

Dear Mr. Bezdek:

Thank you for the opportunity to comment on Possible Regulation Regarding Access to Accounts at Financial Institutions Through Payment Service Providers. We encourage the efforts of the Secretary of the Treasury ("Secretary") to implement the Congressional mandate to make federal payments electronically. You have requested comments regarding whether the Secretary should regulate arrangements between financial institutions and payment service providers in the delivery of electronic federal payments. We have some concerns about these arrangements as explained below.

First, you have specifically requested comment on whether there would be access at a reasonable cost. In Texas, there is no limit on fees that may be charged to a consumer for access to an account. According to studies by local consumer organizations, fees charged by nondepository financial services providers for check cashing or money orders far exceed fees charged by financial institutions.

In addition, state law imposes different regulatory requirements on the various types of nondepository financial service providers. The distinction depends generally on whether consumer funds are received and remitted simultaneously. In such situations, there is no further event that must transpire for the consumer to receive the value of the transaction. For example, an exchange of dollars for pesos results in a simultaneous transaction in which the consumer receives the value of the transaction before he leaves the shop. On the basis of this distinction, currency exchangers, although licensed in this state, have reduced bonding and examination requirements from other licensed nondepository financial service providers.

Check sellers and money transmitters, on the other hand, receive consumer funds and agree to honor the check when presented or agree to transmit funds to another location. For these types of entities, safety and soundness concerns are addressed through the regulatory scheme. Texas requires bonds,

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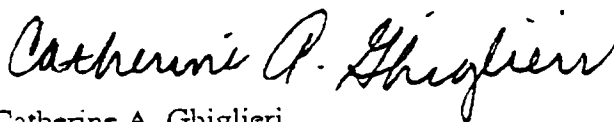
sets a minimum net worth requirement, and establishes restrictions on investments. However, it is important to note the bond amounts for check sellers are not sufficient to cover the payment of all outstanding instruments.

Currently, check cashers are not licensed in Texas. We recommend that the Secretary prohibit financial institutions from linking with unlicensed service providers to provide direct deposit of federal payments.

Every state has slightly different regulatory schemes to address nondepository financial service providers. Any proposed rule should take into account the state variations in regulation of entities other than depository institutions, including licensing, bonding and net worth requirements, and enforcement options. And any rule should promote the involvement of community banks in the delivery of federal payments.

Thank you for the opportunity to comment.

Sincerely,



Catherine A. Ghiglieri
Commissioner

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cc: Conference of State Bank Supervisors
Money Transmitter Regulators Association
Consumers Union

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